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UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

Civil Action No. 04-CV-12249-DPW

| | | |
|--------------------------------------|---|---------------------------|
| HARVARD REAL ESTATE-ALLSTON, INC., |) | |
| Plaintiff, |) | |
| |) | PLAINTIFF'S CERTIFICATION |
| v. |) | PURSUANT TO |
| |) | LOCAL RULE 16.1(D)(3) |
| KMART CORPORATION, KMART STORE 9424, |) | |
| Defendant. |) | |
| |) | |

Pursuant to Local Rule 16.1(D)(3), the undersigned Plaintiff and its counsel hereby certify that they have conferred, (a) with a view to establishing a budget for the costs of conducting the full course, and various alternative courses, of the litigation; and (b) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Respectfully submitted,
 Plaintiff,
 Harvard Real Estate Allston-Inc.
 By its attorneys,

 EJO.
 Frank A. Flynn, Esq. (BBO# 551668)
 Randolph C. English, Esq. (BBO# 628647)
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 Harvard Real Estate-Allston, Inc.

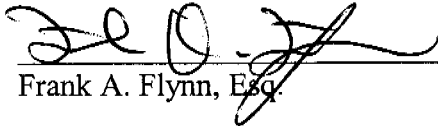
DATED: January 5, 2005

CERTIFICATE OF SERVICE

I, Frank A. Flynn, Esquire, Attorney for the Plaintiff, hereby certify that I have served the Defendant this date with a copy of this Plaintiff's Certification Pursuant to Local Rule 16.1 (D)(3), by facsimile and by mailing a copy of same to its counsel of record by first class mail, postage prepaid, as follows:

William R. Moorman, Esq.
Kathleen A. Rahbany, Esq.
Craig and Macauley Professional Corporation
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

this 10th day of January, 2005.


Frank A. Flynn, Esq. *ESQ*